

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 725 OF 2001 (S/S)

State of Uttaranchal through Executive Engineer Srinagar,
Construction Division-III, Irrigation Department, Srinagar,
District Pauri Garhwal

.....

Petitioner

Versus

1. Presiding Officer, Labour Court, Dehradun
2. Sri Pratap Singh Bhandari S/o Sri Mohan Singh
Bhandari, R/o Village Kanjapali Post Panchali, District
Chamoli

.....

Respondents

*Shri Nand Prasad, learned standing counsel for the petitioner.
Shri M.C. Pant, counsel for Respondent No.2.*

Dated: 29.09.2005

Hon'ble P.C. Verma, J.

By means of this writ petition, the petitioner has prayed for writ of Certiorari quashing the impugned order dated 22.10.1999, passed by Respondent No. 1- Labour Court, Dehradun in Reference Case No.176 of 1999, whereby the learned Labour Court ordered that the Respondent No.2 shall be reinstated in the services with Rs.20,000/-.

2. Brief facts of the case-giving rise to this writ petition are that the Respondent No.2 was appointed as Beldar in the petitioner's establishment w.e.f. 01.11.1988 and as such he worked continuously upto 30.03.1992. On 31.03.1992, the services of Respondent No.2 were terminated by the petitioner without following the provision of Section 6-N of the U.P. Industrial Disputes Act, 1947 (***hereinafter will be referred to as the Act***). Feeling aggrieved, Respondent No.2 raised the industrial dispute, which was referred in the following terms:-

“Whether the termination of the services of the applicant/workman Shri Pratap Singh Bhandari S/o Shri Mohan Singh Bhandari, Beldar, by the

employers from 31.03.1992 is unjustified and/or illegal? If so, to which benefit / compensation the applicant/ workman is entitled and to what extent?””

3. After the receipt of the reference, the Labour Court issued notices to the parties to file their written statement/objections. The labour court after considering the oral and documentary evidence led by the parties came to a conclusion that the termination of services of Respondent No.2 was illegal and unjustified and therefore ordered for his reinstatement with Rs. 5,000/- in lieu of compensation. Feeling aggrieved, this writ petition has been filed.

4. I have heard learned counsel for the parties and perused the entire material on record.

5. The learned Tribunal has rightly recorded the finding on the basis of the documents produced by the employers' that the workman was employed in the month of November, 1988 and worked upto December, 1988. The employers' did not produce the muster roll in respect of the workman for the months of March, 1989, July and August, 1989 and pleaded before the Labour Court that the workman has not worked in those months'. On the other hand, the workman in support of his evidence produced the muster roll for the aforesaid period by which the learned Tribunal has held that the workman has worked for 28, 26 and 26 days respectively for the months' of March, 1989, July and August, 1989 respectively. Accordingly, the Tribunal rightly held that the workman has worked for much more than 240 days in the year 1989. The employers' also pleaded before the Tribunal that the workman has worked for only 208 days from January, 1990 upto August, 1990 and he has not worked from September, 1990 upto December, 1990. The Tribunal has rightly recorded the finding that since the

employers' did not produce the muster roll for the period of September, 1990 upto December, 1990, hence the workman has worked with the employers' from September, 1990 upto December, 1990. Furthermore, the workman has also been shown employed for 14 days in the month of January, 1991. Therefore, the learned Tribunal has rightly held that since the workman has worked for more than 240 days with the employers', hence the order of termination of the workman was illegal and unjustified and the same has been passed in violation of Section 6-N of the Act. Accordingly, the Tribunal ordered for the reinstatement of the workman with Rs.20,000/-.

6. I do not find any perversity or illegality in the judgment of the learned Tribunal. Therefore, the impugned award does not call for any interference by this Court in exercise of its power under Article 226/227 of the Constitution of India. Moreover, no error of law in recording concurrent finding of fact by the Labour Court is pointed out.

7. The writ petition is devoid of merit and is dismissed as such. No order as to costs.

(P.C. Verma, J.)

Rajeev Dang